

112TH CONGRESS
1ST SESSION

S. 407

To amend the Act of June 8, 1906, to require certain procedures for designating national monuments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2011

Mr. CRAPO (for himself, Mr. ENSIGN, Mr. LEE, Mr. ENZI, Mr. RISCH, Mr. BARRASSO, Mr. HATCH, Mr. ROBERTS, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Act of June 8, 1906, to require certain procedures for designating national monuments, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Monument
5 Designation Transparency and Accountability Act of
6 2011”.

1 **SEC. 2. LIMITATION ON DESIGNATION OF NATIONAL MONU-**
2 **MENTS.**

3 Section 2 of the Act of June 8, 1906 (commonly
4 known as the “Antiquities Act of 1906”) (16 U.S.C. 431)
5 is amended—

6 (1) by striking “SEC. 2. That the President”
7 and inserting the following:

8 **“SEC. 2. DESIGNATION OF NATIONAL MONUMENTS.**

9 “(a) IN GENERAL.—Subject to the requirements of
10 this section, the President”;

11 (2) by striking “*Provided*, That when such ob-
12 jects are situated upon” and inserting the following:

13 “(b) RELINQUISHMENT OF PRIVATE CLAIMS.—In
14 cases in which an object described in subsection (a) is lo-
15 cated on”;

16 (3) in subsection (a) (as designated by para-
17 graph (1)), by striking “compatible with the proper
18 care and mangagement of the objects to be pro-
19 tected:” and inserting “necessary to ensure the
20 proper care and mangagement of the objects to be
21 protected.”; and

22 (4) by adding at the end the following:

23 “(c) REQUIREMENTS FOR DESIGNATION OF NA-
24 TIONAL MONUMENTS.—

25 “(1) IN GENERAL.—The President may not
26 issue a proclamation to designate a national monu-

1 ment under subsection (a) before the date that is 30
2 days after the date on which the President provides
3 the proposed proclamation to—

4 “(A) Congress; and

5 “(B) the Governor of each State, the chief
6 elected official of each unit of local government,
7 and the governing entity of each tribal govern-
8 ment with jurisdiction over any parcel of land
9 located within the boundary of the proposed na-
10 tional monument.

11 “(2) PUBLIC PARTICIPATION.—

12 “(A) PUBLIC HEARING REQUIREMENT.—

13 “(i) IN GENERAL.—Subject to clause
14 (v), not later than 90 days after the date
15 on which the President issues a proclama-
16 tion under subsection (a), the Secretary of
17 the Interior (referred to in this section as
18 the ‘Secretary’) shall hold at least 1 public
19 hearing within a county or comparable unit
20 of local government, any part of which is
21 located within the boundary of the pro-
22 posed national monument.

23 “(ii) NOTICE.—Not later than 30
24 days before a public hearing is to be held
25 under clause (i), the Secretary shall pro-

1 vide notice of the hearing to the public, in-
2 cluding by publishing a notice in local
3 newspapers and sending a written notice to
4 stakeholders of the appropriate National
5 Forest or Bureau of Land Management
6 district.

7 “(iii) PARTICIPATION; COMMENTS.—

8 The Secretary shall—

9 “(I) ensure that all interested in-
10 dividuals are afforded an opportunity
11 to participate in a hearing held under
12 clause (i);

13 “(II) solicit comments from the
14 public at the hearing; and

15 “(III) enter into the record all
16 comments received at, or related to,
17 the hearing.

18 “(iv) AVAILABILITY OF RECORD.—

19 “(I) IN GENERAL.—As soon as
20 practicable after the date of a hearing
21 held under clause (i), the Secretary
22 shall make the record of the hearing
23 (including a transcript of the hearing)
24 available to the public on the Internet
25 or by other electronic means.

1 “(II) COMPONENTS.—The Sec-
2 retary shall ensure that any compo-
3 nents of the record of the hearing that
4 are completed before the entire record
5 is finalized are made available on
6 completion of each of the components.

7 “(v) WAIVER.—The Secretary may
8 decline to hold a public hearing under
9 clause (i) if each unit of local government
10 and tribal government within the boundary
11 of the proposed national monument ex-
12 pressly waives the right to a hearing.

13 “(B) NOTICE AND COMMENT PERIOD RE-
14 QUIREMENT.—Not later than 30 days after the
15 date on which the President issues a proclama-
16 tion under subsection (a), the Secretary shall
17 initiate a notice and comment period to receive
18 comments from the public regarding the procla-
19 mation.

20 “(C) REPORT.—

21 “(i) CONTENTS.—Not later than 1
22 year after the date on which the President
23 issues a proclamation designating a na-
24 tional monument under subsection (a), the

1 President shall submit to Congress a re-
2 port that includes—

3 “(I) an analysis of the economic
4 impact of the designation on the com-
5 munities within the boundary of the
6 national monument, including an esti-
7 mate of the tax revenues that would
8 be lost to, or gained by, the Federal
9 Government and State and local gov-
10 ernments as a result of the designa-
11 tion;

12 “(II) an analysis of the impact
13 the designation would have on energy
14 security, including—

15 “(aa) an analysis of the ef-
16 fects of the loss of sites to
17 produce wind, geothermal, or
18 solar energy; and

19 “(bb) an estimate of the
20 number of barrels of oil, tons of
21 coal, or cubic feet of natural gas
22 that would become unavailable as
23 a result of the proclamation;

24 “(III) the projected impact of the
25 designation on interests, rights, and

1 uses associated with the parcels of
2 land within the boundary of the na-
3 tional monument (including water
4 rights, hunting, grazing, timber pro-
5 duction, vegetation manipulation to
6 maintain forest health, off-road vehi-
7 cle use, hiking, horseback riding, and
8 mineral and energy leases, claims, and
9 permits);

10 “(IV) the record of any hearings
11 held under subparagraph (A); and

12 “(V) any written comments re-
13 ceived during the notice and comment
14 period under subparagraph (B).

15 “(ii) REQUIRED COORDINATION.—The
16 preparation of the report under clause (i)
17 shall be coordinated with the governing
18 bodies described in section 210 of the Fed-
19 eral Land Policy and Management Act of
20 1976 (43 U.S.C. 1720).

21 “(iii) PUBLICATION.—The President
22 shall ensure that there is published on the
23 White House website—

24 “(I) during the period in which
25 the report prepared under clause (i) is

1 being compiled, each component of the
2 report that is completed, on comple-
3 tion of the component; and

4 “(II) on submission of the report
5 to Congress, the completed report.

6 “(D) IMPLEMENTATION GUIDELINES.—
7 The Secretary, in cooperation with the States,
8 shall develop and publish guidelines to provide
9 for the implementation of this paragraph.

10 “(3) CONGRESSIONAL APPROVAL OF PROCLAMA-
11 TION.—

12 “(A) APPROVAL REQUIRED.—A proclama-
13 tion issued under subsection (a) shall cease to
14 be effective on the date that is 2 years after the
15 date on which the President issued the procla-
16 mation, unless the proclamation is approved by
17 an Act of Congress on or before the last day of
18 that 2-year period.

19 “(B) MANAGEMENT OF LAND BEFORE AP-
20 PROVAL.—During the period beginning on the
21 date of issuance of a proclamation under sub-
22 section (a) and the date of approval of the proc-
23 lamation under subparagraph (A), the Presi-
24 dent shall ensure that any restriction placed on
25 land and interests, rights, or uses associated

1 with the parcels of land designated as a na-
2 tional monument (including water rights, hunt-
3 ing, grazing, timber production, vegetation ma-
4 nipulation to maintain forest health, off-road
5 vehicle use, hiking, horseback riding, and min-
6 eral and energy leases, claims, and permits) is
7 narrowly tailored and necessary for the proper
8 care and management of the objects to be pro-
9 tected.

10 “(C) EFFECT OF NONAPPROVAL.—If Con-
11 gress does not approve a proclamation to des-
12 ignate a national monument under subpara-
13 graph (A), any reservation of land made by the
14 proclamation, and any restriction imposed as a
15 result of the proclamation on interests, rights,
16 or uses associated with the parcels of land, shall
17 cease to be effective on the date that is 2 years
18 after the date of the issuance of the proclama-
19 tion.

20 “(D) PROHIBITION ON REPEAT PROCLAMA-
21 TIONS.—The President may not issue a procla-
22 mation that is substantially similar to a procla-
23 mation previously issued under subsection (a)
24 that Congress has not approved under subpara-
25 graph (A).

1 “(d) LIMITATION ON RESTRICTIONS.—The President
2 shall ensure that any restriction placed on land and inter-
3 ests, rights, or uses associated with the parcels of land
4 designated as a national monument by a proclamation
5 issued under this section is narrowly tailored and nec-
6 essary to ensure the proper care and management of the
7 objects to be protected.

8 “(e) EFFECT ON CERTAIN STATES.—Nothing in this
9 section affects—

10 “(1) the limitations on designations in the State
11 of Alaska under section 906(j)(5) of the Alaska Na-
12 tional Interest Lands Conservation Act (43 U.S.C.
13 1635(j)(5)); or

14 “(2) the limitations on designations in the State
15 of Wyoming under the proviso of the last sentence
16 of the first section of the Act of September 14, 1950
17 (64 Stat. 849, chapter 950; 16 U.S.C. 431a).”.

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